



CITY OF DURHAM | NORTH CAROLINA

January 20, 2012

*** PRELIMINARY DRAFT ***

To: Thomas Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Constance Stancil, Director, Neighborhood Improvement Services
Subject: Proactive Rental Inspection Program

Executive Summary:

Based on North Carolina General Statute 160A-424 "Periodic Inspections", the Department of Neighborhood Improvement Services (NIS) is proposing a Proactive Rental Inspection Program (PRIP). The purpose of the Proactive Rental Inspection Program ("Program") is to proactively identify and inspect rental housing that does not meet the City of Durham's minimum housing code and all related ordinances or state unsafe building laws, to create a healthy, safe, and crime-free environment, and to further preserve and enhance the quality of life for residents of the City of Durham living in residential rental properties.

The PRIP includes Reasonable Cause periodic inspections, Designated Area periodic inspections, a plan to assist low-income rental property owners in complying with the minimum housing code, registration of rental properties by property owners with code violations, civil penalties for failure to register, and compliance incentives for property owners.

The PRIP specifically supports two of the City of Durham's Strategic Plan goals.

Safe and Secure Community

- To reduce unsafe and substandard housing
- To encourage voluntary compliance with the minimum housing code
- To reduce the likelihood that rental housing will become a public nuisance
- To provide contact information for Code Enforcement, Police, and Fire Departments

Thriving, Livable Neighborhoods

- To preserve the quality and value of housing
- To reduce number of substandard rental units
- To improve living conditions in rental units
- To improve neighborhood appearance in areas with large percentages of rental units
- To reduce the likelihood that rental housing will become unfit and uninhabitable

Recommendations:

1. Hold a public hearing on the plan for the Proactive Rental Inspection Program.

2. Hold a public hearing on ordinance authorizing periodic inspections of rental dwellings and other regulations.
3. City Council to adopt ordinance authorizing periodic inspections of rental dwellings and other regulations.

Background:

In June 2011, the General Assembly of North Carolina enacted Senate Bill 683 which rewrites 160A-424 Periodic Inspections North Carolina cities. It provides that the inspection department (NIS) may make periodic inspections, subject to the council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. The legislation provides for the following key components in the City of Durham's Proactive Rental Inspection Program.

Reasonable Cause Periodic Inspections

- a. The administrator or housing code inspector may make proactive inspections when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist at a residential building or structure. The term "reasonable cause" means any of the following:
 1. The owner or landlord has at least three verified violations of the housing code or unsafe building law within a 12-month period; or
 2. The building has been the subject of a complaint that substandard conditions exist within the building or there has been a request that the building be inspected; or
 3. The administrator, housing code inspector or city manager has actual knowledge of an unsafe condition within the building; or
 4. Violations of the minimum housing code or other codes are visible from the outside of the property.
- b. The city manager or designee shall establish a program to implement reasonable cause periodic inspections authorized by the statute. Such program of periodic inspection shall only include residential buildings or properties that are not owner-occupied. For instance, such a program may solely focus on the inspection of rental units.

Council Designated Periodic Inspections

- a. The City Council will designate a geographic area as part of a targeted effort to require periodic inspections. The geographic area designated by City Council for periodic inspections under this section is the area within the City of Durham city limits. The City shall not discriminate in its selection of areas or housing types to be targeted and shall provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; hold a public hearing regarding the plan; and establish a plan to address the ability of low-income residential rental property owners to comply with minimum housing code standards.
- b. The Department of Neighborhood Improvement Services (NIS) will conduct proactive inspections of rental units in an area designated by the City Council. The targeted effort is based a neutral criterion for the selection of target areas for periodic inspections of rental units within the designated area of the City of Durham city limits.

- c. The program will also establish a plan to address the ability of low-income residential property owners to comply with minimum housing code and related codes.

Residential Rental Property Registration

- a. Rental Registration Program -- The City will develop a Residential Rental Property Registration program for all property owners that have at least three verified code enforcement violations in the prior 1-year period.
- b. The registration program will require the owner of rental unit (property) to supply the City with the owner's contact information.
- c. The City will require an owner of a rental unit (property) to register such rental unit and pay a fee for the registration when the owner's rental unit has had at least 3 verified violations of the housing code or unsafe building law within the previous 12 months. The owner of a rental unit is required to register each rental unit (property) located on a separate tax parcel.
- d. The fee schedule for the Rental Registration is as follows:
- e. It will be unlawful for the property owner who fails to register as required to rent the rental unit (property).
- f. Failure to register is not a criminal violation.
- g. Failure to register as required will result in civil penalties of \$300.00 per month, with a maximum penalty of \$5,000.

Other Key Program Components

Registration of Rental Property Exemption: One-time Grace Period

- a. To provide rental property owners with time to remediate code enforcement violations before registration is required, the City is offering a one-time grace period.
- b. The term of the One-time Grace Period is March 1, 2012 until December 31, 2012.
- c. Property owners with at least three verified violations during the 12 month period prior to January 1, 2013 will be exempt from registration upon meeting the following conditions:
 - 1) All violations are corrected on before the code enforcement maturity date; and
 - 2) The owner or property manager attends a landlord training class; and
 - 3) There are no additional housing code violations.
- d. If the property owner meets all of the conditions, the property owner is not required to register on January 1, 2013
- e. The One-time Grace period does not continue beyond January 1, 2013.

Registration of Rental Property Exemption: Compliance Incentive Program

- a. Beginning January 1, 2013, NIS will have an ongoing Compliance Incentive Program to encourage compliance before registration is required.
- b. Property owners with more than two violations during the 12 month period prior to January 1 of the next calendar year would be exempt from registration upon meeting the following conditions:
 - 1) All violations are corrected on before the code enforcement maturity date; and
 - 2) The owner or property manager attends a training class; and
 - 3) There are no additional housing code violations.
- c. If the property owner meets all of the conditions, the property owner is not required to register on January 1 of the next calendar year.

Self-Certification: Voluntary Rental Inspections for Property Owners

- a. A rental property owner that is not subject to registration but desires a certificate of registration and compliance may obtain the certificate through the Self-Certification program. This program is voluntary.
- b. The self-certification offers rental property owners a three year certificate of registration and compliance
- c. For the three-year term of the certificate of registration and compliance, the building would not be subject to designated area proactive inspections.
- d. Property owners may participate in the Self-Certification Program if:
 - 1) The building has no Durham Minimum Housing Code violations; and
 - 2) There are no NIS liens against the building or owner; and
 - 3) There are no outstanding civil penalties against the owner; and
 - 4) The owner or property manager attends a landlord training class.

Citizen and Stakeholder Input/Feedback

City staff has met with housing advocates, PACs, representatives from various neighborhoods and apartment, realtor and property manager groups, to discuss various approaches and to receive feedback. NIS staff made PRIP presentations to each PAC in 2011 with 98% of PAC survey respondents supporting a PRIP program. NIS staff also made presentations on PRIP to:

- INC
- Durham Crime Cabinet
- Triangle Real Estate Investors Association
- Durham Housing Coalition
- Durham Property Managers (did not support)
- State Senate Commerce Committee
- Key public/private stakeholders—Chamber of Commerce, Capital Broadcasting/American Tobacco, Self Help

The prevailing consensus is that the complaint-based approach has not has significant impact on the substandard rental housing stock in Durham and a proactive residential rental program is required.

Issues and Analysis:

Addressing the problems associated with substandard properties is an ongoing challenge for municipalities such as Durham. Substandard rental properties discourage property developers and investors from investing in neighborhoods.

- Approximately 90% of the complaints received by NIS for code violations are for rental properties
- In 2010 and 2011, 100% of the structures taken to Housing Appeals Board were rental properties
- In 2010, 64% of code enforcement cases taken to Community Life Court were for rental properties
- Substandard rental housing is a contributing factor to crime and disinvestment in the community
- Low-income residents are most affected by substandard rental housing and many are less likely to complain about existing unsafe conditions

The City currently uses a complaint-driven approach. Although, it is the prevailing norm nationwide, this approach is ineffective and has limited impact. It is a band-aid approach to the City's significant substandard rental-housing problem. According to the Center for Disease Control and Prevention, code enforcement systems that operate solely in response to tenant complaints foster the decline of rental housing conditions since tenants may not know to register complaints or may be reluctant to complain out of fear of retaliation by the landlord. In contrast to sole reliance on complaint-based approaches, proactive, periodic inspections can advance primary preventive measures which promote healthy living environments, public safety as well public health. By promoting periodic preventative maintenance through the PRIP, the City is improving the quality of rental housing stock and creating sustainable neighborhoods for everyone.

- Tenants have access to safe, decent, clean and sanitary rental housing
- Neighborhoods are stabilized
- Property Owner/Landlord investment is protected
- Expansion/increase economic life and value of property
- Reduction in property damage and deterioration
- Landlord and tenant accountability

Alternatives:

Council does not approve the proposed Periodic Rental Inspection Program and the Department of Neighborhood Improvement Services continues its current complaint-based system for residential rental property inspections.

Resource Requirements:

The equivalent of two full-time Code Enforcement Officers (CEOs) will be utilized to conduct the rental inspections and follow-up code enforcement actions. The two CEOs are currently part of NIS staff. Property Records staff will manage the PRIP administration and maintain the database of rental properties.

Financial Impact:

The Periodic Rental Inspection program will utilize two existing full-time Code Enforcement Officers. Both of these positions are currently filled, with an annual expense of approximately \$120,000 for salaries and benefits. The costs of program administration, database software, informational material and other items are considered to be nominal and will be absorbed in the current NIS operating budget

SDBE Summary:

This item does not require review by the Equal Opportunity/Equity Assurance Department.

Attachments:

1. PRIP Program Plan
2. PRIP Ordinance Language (Legal)
3. Property Manager Entrepreneurial Program (PMEP)
4. PRIP Plan PowerPoint Presentation
5. Target Area Examples